

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ST. PAUL TRAVELERS INSURANCE
COMPANY LTD.,

Plaintiff,

vs.

M/V MADAME BUTTERFLY, her engines, tackle, ::
machinery, etc., *in rem*; WALLENUS ::
WILHELMSSEN LOGISTICS AS; WALLENUS ::
WILHELMSSEN LOGISTICS AMERICAS LLC; ::
OST TRUCKS AND CRANES, INC.; PACIFIC RO ::
RO STEVEDORING, INC.; PACIFIC RO RO ::
STEVEDORING LLC and PARSIFAL SHIPPING ::
LTD. *in personam*; ::

Defendant.

CASE NO.: 08 CV 00410

**ANSWER TO CROSS-CLAIM BY
OST TRUCKS AND CRANES, INC.**

Defendant Pacific Ro Ro Stevedoring, LLC, improperly also sued herein as Pacific Ro
Ro Stevedoring, Inc., (hereinafter "Pac Ro Ro" or "Defendant") by its attorneys, DUANE
MORRIS LLP, answers the Cross-Claim of OST Trucks and Cranes, Inc., upon information and
belief, as follows:

1. Defendant is without knowledge and/or information sufficient to either admit or
deny the allegations contained in paragraph 1 of the Cross-Claim.
2. Defendant is without knowledge and/or information sufficient to either admit or
deny the allegations contained in paragraph 2 of the Cross-Claim.

3. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 3 of the Cross-Claim.

4. Defendant Pacific Ro Ro Stevedoring, LLC admits it is a Delaware registered company doing business as a stevedore in California but except as admitted denies the allegations contained in paragraph 4 of the Cross Claim.

5. Defendant Pacific Ro Ro Stevedoring, LLC admits it is a Delaware registered company doing business as a stevedore in California but except as admitted denies the allegations contained in paragraph 5 of f the Cross Claim.

6. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 6 of the Cross-Claim.

7. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 7 of the Cross-Claim.

FIRST CAUSE OF ACTION

8. Defendant admits the filing of the Complaint by St. Paul which speaks for itself and incorporates its Answer to the Complaint herein, but except as so admitted denies the allegations contained in paragraph 8 of the Cross-Claim.

9. Defendant denies the allegations contained in paragraph 9 of the Cross-Claim.

10. Defendant denies the allegations contained in paragraph 10 of the Cross-Claim.

11. Defendant denies the allegations contained in paragraph 11 of the Cross-Claim.

12. Defendant denies the allegations contained in paragraph 9 of the Cross-Claim.

SECOND CAUSE OF ACTION

13. Defendant repeats and realleges each and every allegation contained in paragraphs 1 through 12 of the Cross-Claim as if set forth at length herein.

14. Defendant denies the allegations contained in paragraph 14 of the Cross-Claim.

THIRD CAUSE OF ACTION

15. Defendant repeats and realleges each and every allegation contained in paragraphs 1 through 14 of the Cross-Claim as if set forth at length herein.

16. Defendant denies the allegations contained in paragraph 16 of the Cross-Claim.

17. Defendant denies the allegations contained in paragraph 17 of the Cross-Claim.

FOURTH CAUSE OF ACTION

18. Defendant repeats and realleges each and every allegation contained in paragraphs 1 through 17 of the Cross-Claim as if set forth at length herein.

19. Defendant denies the allegations contained in paragraph 19 of the Cross-Claim.

20. Defendant denies the allegations contained in paragraph 20 of the Cross-Claim.

21. Defendant denies the allegations contained in paragraph 21 of the Cross-Claim.

FIFTH CAUSE OF ACTION

22. Defendant repeats and realleges each and every allegation contained in paragraphs 1 through 21 of the Cross-Claim as if set forth at length herein.

23. Defendant denies the allegations contained in paragraph 23 of the Cross-Claim.

24. Defendant denies the allegations contained in paragraph 24 of the Cross-Claim.

25. Defendant denies the allegations contained in paragraph 25 of the Cross-Claim.

SIXTH CAUSE OF ACTION

26. Defendant repeats and realleges each and every allegation contained in paragraphs 1 through 25 of the Cross-Claim as if set forth at length herein.

27. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 27 of the Cross-Claim.

28. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 28 of the Cross-Claim.

29. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 29 of the Cross-Claim.

30. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 30 of the Cross-Claim.

31. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 31 of the Cross-Claim.

32. Defendant repeats and realleges each and every allegation contained in paragraphs 1 through 31 of the Cross-Claim as if set forth at length herein.

33. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 33 of the Cross-Claim.

34. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 34 of the Cross-Claim.

35. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 35 of the Cross-Claim.

36. Defendant is without knowledge and/or information sufficient to either admit or deny the allegations contained in paragraph 36 of the Cross-Claim.

FIRST AFFIRMATIVE DEFENSE

Cross Plaintiff has failed to state a cause of action for which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

That Pac Ro Ro has no liability to plaintiff or to any other person for any loss or damage under the applicable provisions of the Bill of Lading.

THIRD AFFIRMATIVE DEFENSE

That Pac Ro Ro has no liability to plaintiff or to any other person for any loss, or damage under the applicable provisions of the contract of carriage, tariffs and/or applicable law or regulation or other.

FOURTH AFFIRMATIVE DEFENSE

That any liability of Pac Ro Ro is subject to limitation under the provisions of the Bill of Lading.

FIFTH AFFIRMATIVE DEFENSE

That any liability of Pac Ro Ro is subject to limitation under the applicable contract, tariff, law or regulation or otherwise.

SIXTH AFFIRMATIVE DEFENSE

Defendant is entitled to all Defenses and Limitations of Liability provided for by the Bill of Lading.

SEVENTH AFFIRMATIVE DEFENSE

Defendant is entitled to all defenses and Limitations of Liability provided for by contract, tariff, law, and regulation or otherwise.

EIGHTH AFFIRMATIVE DEFENSE

This action is barred by the applicable statute of limitations, laches or other applicable time limit.

NINTH AFFIRMATIVE DEFENSE

The action is barred by the doctrine of Estoppel.

TENTH AFFIRMATIVE DEFENSE

The action is barred by the doctrine of Waiver.

ELEVENTH AFFIRMATIVE DEFENSE

Cross Plaintiff lacks standing to maintain this action.

TWELFTH AFFIRMATIVE DEFENSE

Cross Plaintiff failed to mitigate the claimed loss.

THIRTEENTH AFFIRMATIVE DEFENSE

Cross Plaintiff has failed to perform the conditions necessary or precedent required to maintain this action.

FOURTEENTH AFFIRMATIVE DEFENSE

If proven, the liability alleged was caused by the direct and proximate negligence or wrongs of other parties, their agents or employees or by others unknown at this time, over whom Defendant has no control and for which this defendant cannot not be held liable.

FIFTEENTH AFFIRMATIVE DEFENSE

If proven, the liability alleged was caused by the direct and proximate negligence or wrongs of other parties, their agents or employees or by others unknown at this time over whom Defendant has no control at any time relevant hereto, and in the event Defendant is found liable to plaintiff, which liability is expressly denied, Defendant will be entitled to indemnification.

SIXTEENTH AFFIRMATIVE DEFENSE

If proven, the liability alleged was caused by the direct and proximate negligence of other parties, their agents or employees or by others unknown at this time over whom Defendant has no control at any time relevant hereto, and in the event Defendant is found liable to plaintiff, which liability is expressly denied, Defendant will be entitled to contribution.

SEVENTEENTH AFFIRMATIVE DEFENSE

If proven, the liability alleged was caused by the direct and proximate negligence of other parties, their agents or employees or by others unknown at this time over whom Defendant has no control at any time relevant hereto, and in the event Defendant is found liable to plaintiff, which liability is expressly denied, Defendant will be entitled to an apportionment of liability.

EIGHTEENTH AFFIRMATIVE DEFENSE

Lack of personal jurisdiction over Defendant.

NINETEENTH AFFIRMATIVE DEFENSE

Defendant is not liable as it took all necessary measures to avoid the loss or damage described in the cross claim, or it was impossible for Defendant to take such measures.

TWENTIETH AFFIRMATIVE DEFENSE

The alleged damages were caused and brought about by an intervening and superseding cause and were not caused by Defendant or by a person for whom Defendant is responsible.

TWENTY FIRST AFFIRMATIVE DEFENSE

Defendant acted reasonably and properly at all times, and in accordance with the accepted practices of the industry.

TWENTY SECOND AFFIRMATIVE DEFENSE

Defendant reserves the right to amend this Answer to assert additional defenses upon completion of further investigation and discovery.

WHEREFORE, Defendant PACIFIC RO RO STEVEDORING, LLC, prays for judgment dismissing the Cross Claim with prejudice and with costs, and that it be awarded the reasonable attorneys' fees incurred in the defense hereof, and for such other and further relief that this Court may deem just and proper.

Respectfully submitted,

BY:


James W. Carbin

DUANE MORRIS LLP

A Delaware Limited Liability Partnership

744 Broad Street, Suite 1200

Newark, NJ 07102-3889

973.424.2000

Attorneys for Defendant

Pacific Ro Ro Stevedoring, Inc.

Newark, New Jersey

Dated: February 27, 2008

CERTIFICATE OF SERVICE

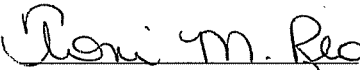
I hereby certify that a copy of Defendants, Pacific Ro Ro Stevedoring, LLC and Pacific Ro Ro Stevedoring, Inc., Answer to Cross-Claim by OST Trucks and Cranes, Inc., has been served via ECF Filing and U.S. mail this 27th day of February, 2008 to the following:

David Yita Loh
Cozen O'Connor
45 Broadway Atrium
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New York, NY 10006

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Thaddeus John Rozanski
Kral, Clerkin, Redmond, Ryan, Perry & Girvan (LLs)
69 East Jericho Tpke.
Mineola, NY 11501

Dated: February 27, 2008


Toni M. Reo